

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Amendment of Section 73.202(b))	
Table of Allotments)	MB Docket No. _____
FM Broadcast Stations)	RM - _____
(Apache Junction, Peoria, Buckeye,)	
Wenden, Aguila and Glendale, Arizona))	

To: The Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

PETITION FOR RULE MAKING

ENTRAVISION HOLDINGS, LLC

Mark N. Lipp
J. Thomas Nolan
Scott Woodworth
Vinson & Elkins, L.L.P.
1455 Pennsylvania Avenue, N.W.
Suite 600
Washington, D.C. 20004
(202) 639-6500

Of Counsel

Barry A. Friedman
Thompson Hine LLP
1920 N Street, NW
Suite 800
Washington, D.C. 20036
(202) 973-2789

Its Counsel

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SUMMARY

This Petition is filed on behalf of Entravision Holdings, LLC, licensee of Stations KVVA-FM, Apache Junction, Arizona; KDVA(FM), Buckeye, Arizona; and KLNZ(FM), Glendale, Arizona. Entravision desires to modify the facilities of its Stations in order to provide better service to the public. Specifically, Entravision requests that the Commission amend the FM Table of Allotments to: (i) delete Channel 296C3 at Apache Junction, Arizona and allot Channel 296C1 at Peoria, Arizona as that community's first local service; (ii) delete Channel 295A at Buckeye, Arizona and allot Channel 295C3 at Wenden, Arizona as that community's first local service; (iii) delete Channel 278C at Glendale, Arizona and allot Channel 278C at Buckeye, Arizona; and (iv) substitute Channel 229C3 for vacant Channel 297C3 at Aguila, Arizona. If this Petition is granted, the communities of Peoria and Wenden, Arizona (with a combined population of 108,920) will receive their first local service, a first aural service will be provided to 193 sq. km., and a second aural service will be provided to 1,405 sq. km. and 1,788 persons. In order to make these changes, a vacant allotment will need to be modified, and a major change application will have to be considered in conjunction with this Petition. If this Petition is granted, Entravision will file applications for Channel 296C1 at Peoria, Channel 295C3 at Wenden, and Channel 278C at Buckeye, and will construct the facilities as so authorized.

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PETITION FOR RULE MAKING

Entravision Holdings, LLC ("Entravision"), licensee of Stations KVVA-FM, Apache Junction, Arizona; KDVA(FM), Buckeye, Arizona; and KLNZ(FM), Glendale, Arizona by its counsel, hereby requests that the Commission amend the FM Table of Allotments to (i) delete Channel 296C3 at Apache Junction, Arizona and allot Channel 296C1 at Peoria, Arizona as that community's first local service; (ii) delete Channel 295A at Buckeye, Arizona and allot Channel 295C3 at Wenden, Arizona as that community's first local service; (iii) delete Channel 278C at Glendale, Arizona and allot Channel 278C at Buckeye, Arizona; and (iv) substitute Channel 229C3 for vacant Channel 297C3 at Aguila, Arizona. If this Petition is granted, Entravision will file applications for Channel 296C1 at Peoria, Channel 295C3 at Wenden, and Channel 278C at Buckeye, and will construct the facilities as authorized. The following table summarizes the changes requested in this Petition:

City	Channel	
	Existing	Proposed
Aguila, Arizona	297C3	229C3
Apache Junction, Arizona ¹	296C3	--
Buckeye, Arizona	295A	278C
Glendale, Arizona	222C, 278C	222C
Peoria, Arizona	--	296C1
Wenden, Arizona	--	295C3

I. Station KVVA-FM, Apache Junction to Peoria, Arizona

A. Technical Analysis

1. As demonstrated in the Technical Narrative, Channel 296C1 can be allotted to Peoria at the coordinates 33-35-47 North Latitude, 112-05-31 West Longitude consistent with Section 73.207 of the Commission's Rules, provided that a transmitter site change is made at Buckeye and a vacant channel change is made at Aguila, as described more fully below. See Figure 1A. A 70 dBu signal can be provided to Peoria from the proposed reference point. See Figure 1B. The relocation of KVVA-FM from Apache Junction to Peoria will result in a predicted net gain in population of 1,627,911 persons within the KVVA-FM 60 dBu contour. See Technical Narrative and Figure 8. The entire loss area will continue to receive at least 5 other aural services, and will thus remain well served. See Figures 6 & 7 .

B. Change in Community of License Criteria

2. Entravision desires to change the community of license for Station KVVA-FM from Apache Junction to Peoria under the guidelines set forth in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 3870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990)

¹ Apache Junction will not be deprived of local service because, as discussed in Paragraph 17 herein, Cortaro Broadcasting Corporation ("Cortaro"), licensee of Station KCKY(AM), Coolidge, Arizona has filed a major change application to change its city of license from Coolidge to Apache Junction (the "Cortaro Application") See BMJP-20040128AKH.

("Community of License"). There, the Commission stated that a station may change its community of license without subjecting the licensee to competing expressions of interest if: (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 296C1 at Peoria is mutually exclusive with the current use of Channel 296C3 at Apache Junction. See Figure 1A. Second, Apache Junction will not be deprived of its only local service because, as discussed in Paragraph 17 herein, KCKY will replace the transmission service lost at Apache Junction. Third, this Petition proposes a first local service at Peoria (2000 U.S. Census pop. 108,364) and at Wenden (2000 U.S. Census pop. 556); under Priority 3, this will result in a preferential arrangement of allotments over the retention of a third local service at Coolidge (2000 U.S. Census pop. 7,786) and at Glendale (2000 U.S. Census pop. 218,812) under Priority 4. See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

3. Peoria is located inside the Phoenix-Mesa Urbanized Area. Apache Junction is also located in this Urbanized Area. Thus, this relocation does not implicate the Commission's policy concerning the relocation of stations from rural to urbanized areas. See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995) ("*Headland*"). Nevertheless, a *Tuck*² showing is provided. In such cases, the Commission will consider the extent to which the Station will provide service to the entire Urbanized Area, the relative populations and proximity of the suburban and central city, and, most importantly, the independence of the suburban community. In this case, from the proposed transmitter site, KVVA-FM would place a 70 dBu contour over 96.7% percent of the Phoenix-Mesa Urbanized Area. Peoria, located in Maricopa

² *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) ("*Tuck*").

and Yavapai Counties, is located approximately 21 kilometers from Phoenix and 42 kilometers from Mesa. The 2000 Census population of Peoria (108,364) is 8.2 percent of the population of Phoenix (1,321,045) and 27.3 percent of the population of Mesa (396,375). These figures are similar to those of other suburban communities granted a first local preference. *See, e.g., Old Fort, Fletcher, and Asheville, North Carolina; Surgoinsville, Tennessee, and Augusta, Georgia*, 18 FCC Rcd 12181 (2003) (Fletcher's population is 6.7% of that of Asheville, and Fletcher is located 17 kilometers from Asheville); *Malvern and Bryant, Arkansas*, 14 FCC Rcd 3576 (1999) (Bryant's population is 3% of that of Little Rock, and Bryant is located 20 miles from Little Rock). In any event, the Commission has repeatedly stated that these factors are less important than evidence of independence. *See Headland*, 10 FCC Rcd at 10352. The following analysis of the eight *Tuck* factors demonstrates the independence of Peoria from Phoenix and Mesa.

(1) ***Extent to which the residents of Peoria work in Peoria.*** According to 2000 Census figures, 6,971 of 49,507 employed individuals in Peoria, or 14.1%, work at their community of residence. *See Exhibit 2.* This percentage compares favorably with other independent communities. *See, e.g., Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (2001) (11.3% of working-age residents worked in community); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610 (1996) (13% of Gilbert's working population actually worked in Gilbert).

(2) ***Newspapers and other media that cover Peoria's local needs and interests.*** The *Peoria Times* is a weekly publication that has served the community of Peoria since 1952. It is published in hardcopy, and is available on the Web at the following site: <www.peoriatimes.com>. The *Peoria Times* provides the residents of Peoria with local new stories, including articles on local sports, local health, local

business, and local government. It also provides the residents of Peoria with an extensive listing of classified ads and an op-ed section. See Exhibit 2.

The residents of Peoria are also served by a number of other local media outlets. The Peoria Chamber of Commerce publishes a monthly newsletter, the *Peoria Progress*, which provides the residents of Peoria with a monthly progress report on the economic development of Peoria through in-depth articles on local business development. Peoria's Channel 11 is the city's official cable television station, which provides live and taped broadcasts of City Council meetings as well as informative programs of local interest. When programming is not being aired on Channel 11, a City Bulletin Board that contains information of interest to Peoria residents is broadcast. Finally, the City of Peoria maintains an extensive Website, <www.peoriaaz.com>, where the residents of Peoria can obtain information ranging from detailed economic development information to a listing of upcoming community events. See Exhibit 2.

(3) ***Community leaders perceive Peoria as being separate from Phoenix and Mesa.*** Peoria is Arizona's 4th largest city in terms of incorporated area, and 9th largest city in terms of population. It was established in the 1880s with the completion of the Arizona Canal. Peoria was originally a farming community, but has developed over time into a thriving business community and has attracted many types of businesses, including professional office projects, call centers, small and medium manufacturers, biotechnology, retail, specialty centers and automotive sales operations. It is currently one of the fastest growing cities in the state of Arizona. Peoria was incorporated in 1954. See Exhibit 2

(4) *Peoria has its own local government and elected officials.* The government of the city of Peoria operates independently of any other government, and consists of a Mayor and a six member Council. The Mayor is elected at-large to a four-year term, while the six Council members are each elected from different districts within Peoria. The Council meets in regular sessions on the 1st and 3rd Tuesday of each month and study sessions are held on the 3rd Tuesday of the month. All Council meetings are open to the public and, time permitting, citizens may speak before the Council at the regular meetings. *See Exhibit 2.*

There are approximately 19 boards and commissions that serve the community of Peoria and they include the following: the Arts Commission, the Board of Adjustments, the Design Review Appeal Board, the Economic Development Advisory Board, the Library Board, the Parks and Recreation Board, the Planning and Zoning Commission, the Public Safety Retirement Board, and the Youth Advisory Board. Peoria's government provides numerous municipal services to the residents of Peoria, including the following: building permits, trash collection, police protection, fire protection, housing services, zoning services, water and sewer services, and traffic engineering. *See Exhibit 2.*

The Peoria Sports Complex is a twelve stadium and practice baseball field complex located in Peoria. Built in 1994, the Complex is the spring training home of the San Diego Padres and Seattle Mariners. Current development in the area surrounding the Peoria Sports Complex includes five new hotels, a variety of restaurants, an office complex, a two sheet ice rink and an 18 screen movie theatre complex. *See Exhibit 2.*

(5) There are six zip codes reserved exclusively for Peoria and Peoria provides government phone listings on the web. The six zip codes designated exclusively for Peoria are 85345, 85380, 85381, 85382, 85383, and 85385. The U.S. Postal Service operates five post offices in Peoria. The Peoria municipal government provides an extensive listing of all government phone numbers on the Peoria website. The residents of Peoria can use these numbers to contact any individual, department or commission in Peoria, and to find out information about the services provided by Peoria. See Exhibit 2.

(6) Peoria has its own commercial establishments, health services, and transportation services. Peoria is home to a variety of businesses and commercial establishments. The Peoria Chamber of Commerce provides a listing of hundreds of businesses located in Peoria and serving the community of Peoria. A number of local businesses identify with the community by using "Peoria" in their name, including the Peoria Animal Hospital, A-Peoria Plumbing, Peoria Cleaners & Laundry, Peoria Grand Storage Solutions, Peoria KIA, Peoria Mini Storage, Peoria Nissan, and Peoria Pontiac-GMC. Other retail and commercial businesses include, Purcell Western States Tire, Pulse Skateboards, A & G Turf Equipment, AZ BBQ, Accurate Corrosion Control, Advent Signs and Engraving, Allstate Insurance, and Arizona Window Traditions. The residents of Peoria can shop at one of three Albertson's grocery stores located in Peoria. Banking services are provided by Bank One, First National Merchant Solutions, Washington Mutual Bank, and four Wells Fargo branches. Lodging establishments are provided by Comfort Suites, Hampton Inn, Holiday Inn, La Quinta, Old Town Bed and Breakfast, and Residence Inn. Restaurants in Peoria include Buca di Beppo, Cattlemens,

Cracker Barrel, Dillon's Restaurant, Elephant Bar Restaurant, Firebirds Rocky Mountain Grill, IHOP, McDuffy's, Olive Garden, On the Border, and P.F. Changs. *See Exhibit 2.*

A number of health care providers are located in Peoria. Medical services are provided by the Desertview Medical Clinic, the Smart Care Medical Clinic, and a number of sole practitioners. Chiropractic care is provided by Better Health by Design Chiropractic, Cactus Chiropractic Center, Crossroads Chiropractic, and Fletcher Heights Chiropractic. Dental care is provided by Sunrise Dental and a number of sole practitioners. Hospice care is provided by the Immanuel Campus of Care. *See Exhibit 2.*

The Transit Division of the City of Peoria offers its residents alternative means of public transportation. It currently has a dial-a-ride service and a fixed route service with park and ride lots available to all residents. *See Exhibit 2.*

Peoria is home to a number of religious and community organizations, including the following: the Antioch Church of God in Christ, the Calvary Baptist Church, Christ's Church of the Valley, St. Alban's Church, St. Haralambos Greek Orthodox Church, the Peoria Arizona Historical Society, the Peoria Chamber of Commerce, the Peoria Fine Arts Association, the Peoria High Noon Kiwanis, the Peoria Lions Foundation, and the Peoria Sunset Lions. *See Exhibit 2.*

(7) ***Peoria is a separate and distinct advertising market from Phoenix and Mesa.*** The *Peoria Times* and the *Peoria Progress* allow the businesses of Peoria to advertise to the residents of Peoria without relying on Phoenix or Mesa. Both publications provide advertising space in the hardcopy versions of their papers and on their Websites. *See Exhibit 2.*

(8) *Peoria has its own schools, libraries, police protection and fire protection.* The Peoria Unified School District serves the residents of Peoria with three high schools and numerous elementary schools, including Peoria High School, Centennial High School, Sunrise Mountain High School, Peoria Elementary, Ira A. Murphy Elementary, and Park Ridge Elementary. The Peoria Public Library system provides the residents of Peoria with three libraries, including the Main Library, the Sunrise Mountain Library, and West Valley Art Museum Library. *See Exhibit 2.*

Peoria has its own police and fire departments. Police services are provided by the City of Peoria Police Department and fire services are provided by the Peoria Fire Department. The Peoria Police Department employs over 200 personnel in the following bureaus: the patrol services bureau, the criminal investigations bureau, the staff services bureau, the technical services bureau, and the crime analysis unit. The Peoria Fire Department has seven stations, over 100 employees, and is divided into the following divisions: the fire administration division, the fire community service division, the fire support services division, and the fire operations division. *See Exhibit 2.*

4. Peoria is clearly independent of Phoenix and Mesa and therefore deserving of a first local service. Entravision reiterates that if the Commission allots Channel 296C1 to Peoria, Arizona as that community's first local service, it will file an application for Channel 296C1 at Peoria and will construct the facilities as authorized.

II. Station KDVA, Buckeye to Wenden, Arizona

A. Technical Analysis

5. As demonstrated in the Technical Narrative, Channel 295C3 can be allotted to Wenden at the coordinates 33-49-06 North Latitude, 113-37-46 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic

allotments and facilities. *See* Figure 2A. A 70 dBu signal can be provided to Wenden from the proposed reference point. *See* Figure 2B. The relocation of KDVA from Buckeye to Wenden will result in a predicted net gain in area of 2,315 sq. km. *See* Figure 8. The entire loss area will continue to receive at least 5 other aural services, and will thus remain well served. The gain area will contain (i) a first aural reception service (Priority 1) to 193 sq. km. and no population; and (ii) a second aural reception service (Priority 2) to 1,405 sq. km. and 1,788 persons. *See* Figure 8.

B. Change in Community of License Criteria

6. Entravision desires to change the community of license for Station KDVA from Buckeye to Wenden under the guidelines set forth in *Community of License, supra*. First, the proposed use of Channel 295C3 at Wenden is mutually exclusive with the current use of Channel 295A at Buckeye. *See* Figure 2A. Second, Buckeye will not be deprived of its only local service because, as discussed in Paragraph 14 herein, Entravision proposes to change the community of license of KLNZ from Glendale, Arizona to Buckeye. Third, as discussed in Paragraph 2 herein, establishment of first local service at Peoria and at Wenden under Priority 3 will result in a preferential arrangement of allotments over the retention of a third local service at Coolidge and at Glendale under Priority 4.

7. Wenden is not located in an Urbanized Area, and the proposed 70 dBu contour of KDVA will not cover any percentage of an Urbanized Area. Therefore, this relocation does not implicate the Commission's policy against migration of stations from rural to urban areas, and a *Tuck* showing is not required.

8. Wenden enjoys the attributes that the Commission traditionally associates with a community. Wenden is listed in the 2000 U.S. Census and therefore is presumed to have the

status of a community for allotment purposes. *See Arnold and Columbia, California*, 7 FCC Rcd 6302 (1992).

9. The U.S. Postal Service has designated the zip code 85357 exclusively for Wenden and operates an office at 70948 US Highway 60. According to 2000 Census figures, 41 of 268 employed individuals in Wenden, or 15.3%, work in their community of residence. Wenden Fire and Rescue provides the community of Wenden with traditional fire and rescue services, and water is provided by the Wenden Water Improvement District. The Wenden Elementary School employs ten teachers and has an enrollment of approximately 110 students. Additionally, the State Parks Department of Arizona maintains an office in Wenden. *See Exhibit 3.*

10. Wenden is located in La Paz County in McMullen Valley between the Harquahala and Harcuvar Mountains and is known as the "Gateway to Alamo Lake." The town was first established by Otis E. Young in 1905 and was originally named Wendendale. Wenden was founded as a supply depot for the mines in the area and, in 1907, Wells Fargo established an office in Wenden for the shipment of gold. Today, agriculture and tourism are the main economic contributors to Wenden. *See Exhibit 3.*

11. Wenden is a member of and is served by the McMullen Valley Chamber of Commerce. The Chamber was founded in 1989 and is "committed to establishing, encouraging and promoting economic development and improvement of the communities." The Chamber provides a list of some of the businesses and commercial establishments that serve Wenden, and they include Brooks Outback Restaurant, Crystal's Café, Growers Service Mini Mart, Kibbee's Shopping Center, Stacy & Sons Excavating, Young Maintenance, Wenden Septic, Checker Auto Glass, the Morenga Palms RV Park, the Feed Store, Jim & Bea's Bait & Tackle, Illene Wood

Real Estate, and Wenden Water Works. The *Ribbitt News* is a regional newspaper that serves the community of Wenden. *See Exhibit 3.*

12. The community of Wenden is home to a number of churches including the Church of Jesus Christ of Latter-Day Saints, the Gospel Lighthouse, St. John the Baptist Catholic Mission, and the Wenden Bible Church. Community organizations in Wenden include the McMullen Valley 4-H and the Young Marines of Wenden Arizona. *See Exhibit 3.*

13. Wenden is a community deserving of a first local transmission service. Entravision reiterates that if the Commission allots Channel 295C3 at Wenden, Arizona as that community's first local service, it will file an application for Channel 295C3 at Wenden and will construct the facilities as authorized.

III. Station KLNZ, Glendale to Buckeye, Arizona

14. In order to maintain local service at Buckeye, Entravision desires to change the community of license of Station KLNZ (Channel 278C) from Glendale to Buckeye. As demonstrated in the Technical Exhibit, Channel 278C can be allotted to Glendale at KLNZ's current coordinates of 33-35-33 North Latitude, 112-34-49 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities. *See Figure 3A.* A 70 dBu signal can be provided to Buckeye from the current reference coordinates. *See Figure 3B.* Since KLNZ's facilities will not be relocated, there will be no change in population and area served.

15. Entravision desires to make this change under the guidelines set forth in *Community of License, supra*. First, the facilities are identical and the proposed use of Channel 287C at Buckeye is mutually exclusive with the current use of Channel 287C at Glendale. *See Figure 3A.* Second, Glendale will not be deprived of its only local service because it is currently served by Stations KKFR(FM) (Channel 222C) and KPXQ(AM) (1360 kHz). Third, as

discussed in Paragraph 2 herein, establishment of first local service at Peoria and at Wenden under Priority 3 will result in a preferential arrangement of allotments over the retention of a third local service at Coolidge and at Glendale under Priority 4.

IV. Substitution of Vacant Channel at Aguila, Arizona

16. In order to allot Channel 297C3 to Peoria it will be necessary to change the channel of the vacant allotment at Aguila, Arizona. Figure 4A of the Technical Narrative demonstrates that Channel 229C3 can be substituted for Channel 297C3 at Aguila at the current allotment reference coordinates consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities.

V. Station KCKY, Coolidge to Apache Junction, Arizona

17. In order to allot Channel 297C3 to Peoria, local service must be maintained at Apache Junction. For that reason, on January 28, 2004, Cortaro Broadcasting Corporation ("Cortaro"), licensee of KCKY filed a major modification application with the Commission to change the community of license of KCKY from Coolidge, Arizona to Apache Junction, Arizona. See File No. BMJP-20040128AKH. If the Cortaro application is granted by the Commission, Apache Junction will be served by KCKY and thereby not deprived of its only local service. Therefore, Entravision requests that the Commission consider this Petition in conjunction with the Cortaro major modification application.

18. There is precedent for the Commission to consider a petition for rule making in conjunction with a major modification application. See *Marion and Johnston City, Illinois*, 18 FCC Rcd 15346 (2003) ("*Marion*"). In that case, Clear Channel Broadcasting Licenses, Inc. ("Clear Channel") filed a major change application with the Commission to change the community of license of WHTE(AM) from Johnston City, Illinois to Berwyn, Illinois (the "Clear Channel Application"). In order to ensure that this relocation did not deprive Johnston City of

local service, Clear Channel filed a petition for rule making requesting to change the community of license of WDDD-FM from Marion, Illinois to Johnston City, Illinois. In *Marion*, the Commission granted Clear Channel's request to change the community of license of WDDD-FM from Marion, Illinois to Johnston City, Illinois stating that "the Commission routinely allows allotment 'backfills' by existing stations to preserve local service." *Id* at 15348. In a separate action, taken on the same day, the Commission granted the Clear Channel application to change the community of license of WHTE(AM) from Johnston City, Illinois to Berwyn, Illinois. See BMAP-20010719AAN. These two proceedings were coordinated by the Commission and granted at the same time specifically to avoid depriving a community of its only local service where the overall arrangement was found to be in the public interest.

19. Here, the Commission is faced with the same situation. In order to provide Peoria and Wenden with first local transmission service, this Petition and the Cortaro application need to be considered in conjunction with each other to ensure that the community of Apache Junction will not be deprived of its only local service. In that regard, Cortaro specifically filed to serve Apache Junction pursuant to a contractual understanding with Entravision. Thus, Cortaro is committed to serving Apache Junction and desires to have its application coordinated with this FM proceeding. Attached as Exhibit 4 is Cortaro's statement to the foregoing.

VI. Conclusion

20. This Petition, as advanced by Entravision, offers significant public interest benefits. The communities of Peoria and Wenden will each receive a first local service while the current communities of Apache Junction, Buckeye, Coolidge and Glendale will remain well served. There will also be a substantial net increase in population and area served. Accordingly, Entravision urges the Commission to grant this Petition.

Respectively submitted,

ENTRAVISION HOLDINGS, LLC

Mark N. Lipp
J. Thomas Nolan
Scott Woodworth
Vinson & Elkins, L.L.P.
1455 Pennsylvania Avenue, N.W.
Suite 600
Washington, D.C. 20004
(202) 639-6500

Of Counsel

By: 

Barry A. Friedman
Thompson Hine LLP
1920 N Street, NW
Suite 800
Washington, D.C. 20036
(202) 973-2789

Its Counsel

March 23, 2004